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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

In the Matter of the Suspension)	Administrative Action
or Revocation of the License of)	
JAMES OLIVER, D.D.S.)	
DI 9170)	FINAL ORDER
)	OF DISCIPLINE
Licensed to Practice Dentistry)	
in the State of New Jersey)	
<hr/>)	

This matter was initiated by the New Jersey Board of Dentistry ("Board") through the entry of a Provisional Order of Discipline on January 20, 1999, based upon information that James Oliver, D.D.S. ("respondent"), was engaged in the practice of dentistry in this State without holding a current registration, that respondent had failed to provide records to the Board at its request on two occasions, that respondent has failed to comply with the terms of the Assurance of Voluntary Compliance entered on November 27, 1996, and that respondent's treatment of patient W.T. failed to meet the standard of care for dentists in this State. In response to the Provisional Order, Dr. Oliver forwarded a letter to the Board

seeking additional time to comply and advising that he had not yet consulted with an attorney. The Board has considered Dr. Oliver's limited response and notes that Dr. Oliver has provided no information to contradict the Board's findings and has offered nothing by way of mitigation of the sanction to be imposed for his conduct. Based on its review of the entire record, including the testimony of respondent, the Board adopts the following:

Findings of Fact

Respondent appeared at an investigative inquiry on January 21, 1998. Respondent asserted that he was unaware that his license had expired. Although he claims to have attempted to take the continuing education hours as required by the Letter of Voluntary Assurance, he acknowledged that he has not done so. After review of its records and hearing from respondent, it is apparent that respondent does not hold a current registration, has not held a valid registration since at least 1995, and has failed to complete all the continuing education hours as required by the November 1996 Letter of Voluntary Assurance. That Letter was issued following the Board's review of a patient complaint in which respondent's treatment of the patient and the patient's periodontal condition was demonstrably deficient. Further, respondent failed to respond in a timely fashion to the Board's request for records on two occasions, specifically by failing to respond to a request for a patient record dated October 27, 1997 and February 2, 1998, and a request for proofs of continuing education dated October 28, 1998.

The Board offered to settle the outstanding violations by way

of a consent order forwarded to respondent by certified mail, return receipt requested, in August 1998. That letter was returned "unclaimed." The consent order was then hand delivered to respondent's office by the Enforcement Bureau of the Division of Consumer Affairs. Respondent answered the offer of settlement by letter dated November 2, 1998 asking the Board to grant him further time to complete continuing education courses and not to suspend his license based on his failure to renew his license and failure to complete continuing education credits as required by regulation and the Letter of Voluntary Assurance.

Respondent appeared before the Board, without counsel, on November 18, 1998 at an investigative inquiry. While respondent claimed to have sent in a renewal application, he did not produce a canceled check or any other evidence supporting his claim. He acknowledged that it was his responsibility to ensure that he was licensed and that he has not had a current license for the renewal periods 1995-1997 and 1997-1999. He has acknowledged that he continued to practice dentistry throughout these periods.

Further, at that inquiry, respondent was questioned regarding his treatment of patient W.T. It is clear from respondent's testimony and the patient record that respondent did not adequately treat the periodontic condition of the patient and that respondent failed to maintain adequate patient records. These deviations are substantially the same as those which gave rise to the 1996 Letter of Voluntary Assurance, for which respondent was directed to take continuing education courses.

The Board considered respondent's explanations during his testimony regarding his failure to renew his license as well as his failure to complete the required continuing education. Those reasons included personal health related issues and a misunderstanding of continuing education requirements. The Board finds these excuses unpersuasive. Had respondent complied with the continuing education requirements set forth in the November 1996 letter, the current patient complaint may not have been made. Moreover, given the passage of two years since the entry of the Letter of Vountary Assurance and the passage of several months since respondent's January appearance before the Board, at which time he was placed on full notice of his failure to hold a current license, the Board finds that respondent's recalcitrance is actionable.

Conclusions of Law

Respondent's conduct in failing to secure a current license and continuing to practice dentistry is a violation of N.J.S.A. 45:6-10 and N.J.S.A. 45:1-21 (h). Respondent's conduct in failing to comply with the provisions of the Letter of Voluntary Assurance entered on November 27, 1996, and in failing to respond to requests for information, violates the Duty To Cooperate Regulation, N.J.A.C. 13:45C-1.4 and N.J.A.C. 13:45C-1.3(a) 1, respectively, and constitutes professional misconduct supporting disciplinary action pursuant to N.J.S.A. 45:1-21 (e). Respondent's treatment of patient W.T. deviated from the standard of care for dentists in the State, and when coupled with the treatment of the patient whose

complaint, was the subject of the Letter of Voluntary Assurance, constitutes repeated acts of negligence pursuant to N.J.S.A. 45:1-21 (d).

THEREFORE, IT IS ON THIS 29 DAY OF APRIL 1999

ORDERED:

1. Respondent shall cease and desist from engaging in the practice of dentistry in this State unless he holds a valid, current registration.

2. Respondent's license to practice dentistry in this State shall be suspended for a period of two years, six months of which shall be an active suspension, effective May 15, 1999. The remaining period of suspension shall be stayed and shall constitute a period of probation. Respondent shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered by other licensees for patients of respondent's practice during the period of active suspension. Respondent shall not be permitted to enter the premises of the dental facility during the period of active suspension or provide consultation to any other licensees rendering treatment to patients of respondent or sign or submit insurance claim forms for treatment rendered during the period of active suspension or render administrative or other supervisory duties during that time.

3. In addition to and notwithstanding the period of active suspension set forth in paragraph 2 above, respondent's license shall continue to be suspended and shall not be renewed unless and until he complies fully with the terms of this Order.

4. Respondent shall successfully complete the following 125 continuing education hours within the time frame set forth in this paragraph:

a. For the renewal period November 1995 - October 1997: forty (40) hours to be completed by June 1, 1999;

b. For the renewal period November 1997 - October 1999: forty (40) hours to be completed by June 1, 1999;

c. For continuing education hours required by the Letter of Voluntary Assurance, the forty five (45) remaining hours are to be completed by June 1, 1999.

The courses required pursuant to paragraph 2 c shall be approved by the Board in writing prior to attendance, using the attached pre-approval sheet. Respondent shall complete the attached continuing education report and proof of attendance as proof of successful completion of the required course work for all credits. A separate form shall be used for each course. Continuing education hours required to be completed by this order are in addition to the continuing education requirements necessary for the renewal period 1999-2001, which hours must be completed by October 31, 1999.

5. Respondent shall, upon entry of this final order of discipline, submit a certified check or money order for \$520.00 payable to the State of New Jersey and forwarded to Agnes Clarke, Executive Director, New Jersey Board of Dentistry. That sum reflects the \$220.00 licensing fee and \$100.00 late fee for the

renewal period 1995-1997 and the \$100.00 licensing fee and \$100.00 late fee for the renewal period 1997-1999.

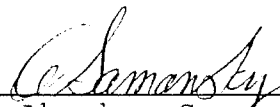
6. Respondent, prior to resuming practice, shall provide proof of current registrations for x-ray equipment and waste disposal.

7. Respondent shall, upon entry of this order of discipline, pay a civil penalty in the amount of \$8,500. Of that sum, \$2,500 reflects a penalty for practicing without a current registration in violation of N.J.S.A. 45:1-21(h); \$2,500 reflects a penalty for failing to comply with the terms of the Letter of Voluntary Assurance; and \$1,000 reflects a penalty for failing to comply with the Board's requests for records in connection with its investigations in violation of N.J.S.A. 45:1-21(h); and \$2,500 for engaging in repeated acts of negligence pursuant to N.J.S.A. 45:1-21 (d). Payment shall be made by certified check or money order, payable to the State of New Jersey and forwarded to Agnes Clarke, Executive Director, Board of Dentistry, P.O. Box 45005, Sixth Floor, 124 Halsey Street, Newark, New Jersey 07101.

8. Respondent shall, within thirty days of receipt of an affidavit of costs to be submitted by Agnes M. Clarke, Executive Director, pay such costs of investigation in this matter. Payment

for costs shall be made by certified check or money order payable to the State of New Jersey and submitted to Agnes Clarke, Executive Director, Board of Dentistry.

New Jersey Board of Dentistry

By: 
Abraham Samansky, D.D.S.
President